Indian POLITY

Unit 1 - The Constitutional Development of India

Acts Under Company Rule

Regulating Act, 1773

- Passed by British Parliament
- **Aims**

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  To abolish
  - Corruption
  - Maladministration

  } Prevalent in Company

- **Provisions**
  - Madras Presidency
  - Bombay Presidency
  - Governor of Bengal

  } Under Calcutta Presidency

  → Governor General of Bengal (British Regions)
  - First Supreme Court was established in the year **-1774**

Pitts India Act, 1784

Major Provisions

- Increase in Government control in the affairs of the company, establishment of control Board
- Policy of Non-Interference in the business of the Company.
- The Commercial & Political functions of the company were separated from each other

Act of 1786

Governor General had the power to override the decision of his council in special cases and to give effect to his decisions.

Charter Act, 1813

- It ended the Company's monopoly over trade
  - Except for tea & trade with China
- Right to control over Indian territories & Revenue for the next 20 years to the company
- First time made provision to invest Rs 1 Lakh rupees per year on the education of Indians

Charter Act, 1833

- The Company's commercial privileges were closed down.
- Provision for the Company to do only administrative work
- The Governor General of Bengal now became the Governor General of India
- **To enact laws**
  - A law member included in the Governor-General's council (Macaulay-The first legal member) (The legislative powers were taken away from the Bombay & Madras Presidencies)

Charter Act, 1853

➢ Salaries of the members of Board of Control & its other officers would be
- **Fixed**

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by government
- **Finance was**

↓

given by Company

➢ Number of Directors
- Reduced from 24 to 18

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(6 members nominated by the Crown)

Government of India Act 1858

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The control on Indian administration ● Taken away from The Company ● Given to the **British Crown**	**Secretary of State for India** ● Board of Directors ● Board of Control (All vested rights of both were given to the secretary of state for India	New name of Governor General of India ↓ Viceroy ↓ Direct representative of the British Crown in India

Acts under the rule of the British Crown

Indian Councils Act 1861

➢ Power of Viceroy to promulgate
- Ordinances in emergency
- The maximum period for the Ordinance was in force (6th Months)
- Empowed the Viceroy's council to make laws

(Lord Canning → Departmental System)

➢ Expansion of the Viceroy's executive council

➢ Provinces of Bombay & Madras (Restored power)
- To legislative powers
- To overrule the council if necessary

Indian Councils Act 1892

→ The members of the legislative council were empowered to express their views on the budget.

→ Right to ask questions in matters of Public Interest by giving 6 days prior notice to the members of the legislature.

→ The introduction of the electoral system at limited scale.

Indian Councils Act, 1909

➢ **Commonly known as** Morley-Minto Reforms, 1909

➢ System of Communal Representation

➢ The members of the Central Legislature were not given the right to vote on the budget.

HISTORICAL BACKGROUND

Topics Covered in this Unit

* Historical Evolution
* Borrowed features from other Constitution
* Making of the Constitution
* Salient Features of the Constitution

Historical Background

Evolution

- In order to know about the Indian Political structure, it becomes very important to know about the Indian Constitution.
- There are various Rules and Acts which were passed before Independence and played a vital role in shaping our constitution. Some of the important historical events are listed below:

Regulating Act of 1773

- It was the f**irst step taken by the British government to control and regulate the affairs of the East India Company in India.**
- It **recognised, for the first time, the political and administrative functions of the company.**
- It laid the foundation of central administration in India.
- It designated the Governor of Bengal as the **'governor-general of Bengal'.** The 1st such governor-general was **Lord Warren Hastings.**
- It provided for the **establishment of a Supreme Court at Calcutta (1774)** comprising one chief justice and three other judges.

Amending Act, 1781

- To rectify the defects of the Regulating Act of 1773, the British Parliament passed the Amending Act of 1781, also known as the **Act of Settlement or Declaratory Act, 1781.**
- The key provision of this act was to **demarcate the relations between the Supreme Court and the governor-general in council.**
- It settled the question of **jurisdiction of the Supreme Court.**

Pitt's India Act, 1784

- Indian affairs came under the **direct control** of the British government in Britain.
- **Distinguished the commercial and political functions of the company.**
- Allowed the court of directors to manage the commercial affairs and created a new body called **Board of Control (6 members)** to manage the political affairs. Thus, it established a system of dual government.
- **Empowered the Board of Control to supervise and direct all operations of the civil and military government or revenues of the British possessions in India.**

Charter Act, 1813

- **It ended the monopoly of the East India Company (EIC) in India** except for the company's monopoly in "trade with China" and "trade in tea with India".
- Thus, trade with India for all commodities except tea was thrown open to all British Subjects. This lasted till 1833 when the next charter abolished the trading rights of the company.
- Charter Act 1813 for the **first time explicitly defined the constitutional position of the British territories in India.**

Charter Act, 1833

- It was the final step towards centralization.
- Governor-general of Bengal became the governor-general of India (Lord William Bentick was the first governor-general of India).

- Governor-general was vested with all civil and military powers.
- **It deprived the governor of Bombay and Madras of their legislative powers.**
- The **Laws made under the previous acts were known as regulations, while the laws made under this act were known as Acts.**
- It ended the activities of the EIC as a commercial body, making it a purely administrative body.
- Introduced law member (Macaulay) in governor general's council.
- Section 87 of the act provided that there will be no discrimination on the basis of caste, religion, class & birth place in context to appointments in govt. Service.

Charter Act, 1853

- Separated the legislative and executive functions of the governor general's council.
- Provided for the addition of six new members called legislative councillors to the council known as the Indian (Central) Legislative Council.
- **It introduced, for the first time, local representation in the Indian (Central) Legislative Council.**
- **Introduced an open competition for civil services.** The covenanted civil service was thus thrown open to the Indians also.

Government of India Act, 1858

- Also known as the Act for the good government of India.
- The rule of the company was replaced by the rule of the crown.
- **Changed the designation of the governor-general of India to that of Viceroy of India.**
- **Viceroy became the agent of the Crown.**
- This act abolished the dual government of the Pitt's India Act.
- This act also ended the Doctrine of Lapse.
- The Secretary of State was a member of the British Cabinet and was responsible ultimately to the British Parliament.
- Established a 15 member Council of India to assist the secretary of state for India.

Indian Councils Act, 1861

- Initiated the process of decentralization by restoring legislative power to Bombay and Madras. (These powers were taken away through charter Act, 1833).
- Introduced representative institutions in India by associating Indians with the law-making process.
- Viceroy nominated **some Indians as non-official member** of his expanded council. Three Indians nominated were - the Raja of Banaras, the Maharaja of Patiala and Sir Dinkar Rao.
- It empowered the viceroy to issue ordinances during emergency.
- Empowered the viceroy to frame the rules of business (the same power is given to president of India under Article 77).
- Statutory recognition to portfolio system.
- Establishment of new legislative councils for Bengal, NWFP and Punjab.

Indian Councils Act, 1892

- Though the majority of official members were retained, the non-official members of the Indian Legislative council were increased. Hence the members were nominated by the Bengal Chamber of commerce and the provincial legislative councils.
- The non-official members of the provincial council were to be nominated by certain local bodies such as universities, district boards and municipalities.
- Beginning of **representative system in India.**
- Council was vested with the power to discuss on budget & addressing the questions to the executive.

Indian Councils Act, 1909 (Morley-Minto Reform)

- An element of elections to the legislative councils introduced for the first time.
- At the provincial legislative councils, non-official members to be in majority.
- Introduction of **separate electorates (for Muslims).**
- It provided for the first time, an association of Indians with the executive council of the viceroys and governor. (Satendra Prasad Sinha became the first Indian to join the viceroy's executive council. He was appointed as the Law member).